

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

FRANCISCO GARCIA -RODRIGUEZ,

Petitioner,

9:05-CV-377
(LEK)(DRH)

v.

T.S. CRAIG, Warden,

Respondent.

APPEARANCES:

FRANCISCO GARCIA-RODRIGUEZ

Petitioner, *pro se*

02798-049

FCI Ray Brook

P.O. Box 9006

Ray Brook, NY 12977

LAWRENCE E. KAHN, U.S. DISTRICT JUDGE

ORDER

Francisco Garcia-Rodriguez ("Rodriguez" or "petitioner") filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 with the Court on March 24, 2005.

Docket No. 1. Said petition was dismissed by Order of the this Court filed April 8, 2005.

("April Order"). See Docket No. 4. Presently before the Court is petitioner's notice of appeal and motion for a certificate of appealability. (Docket No. 6).

The Court notes that a federal prisoner is not required to obtain a certificate of appealability to challenge the denial of a petition brought pursuant to 28 U.S.C. § 2241.

See *Yu v. United States*, 183 F. Supp. 2d 657, 664 (S.D.N.Y. 2002). Accordingly, petitioner's request for a certificate of appealability will be denied as moot.

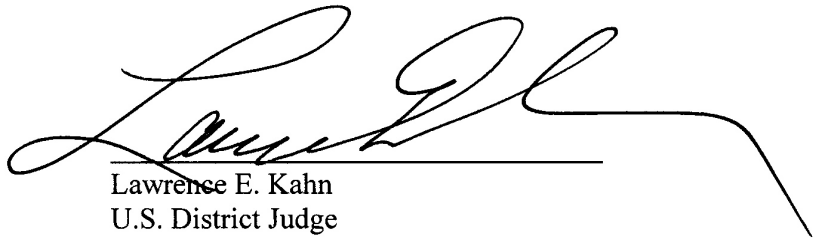
WHEREFORE, it is hereby

ORDERED, that petitioner's application for a certificate of appealability (Docket No. 5) is **DENIED** as moot, and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order upon the petitioner by regular mail.

IT IS SO ORDERED.

Dated: April 27, 2005
Albany, New York



Lawrence E. Kahn
U.S. District Judge